

## Physical Therapy Board of California

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### **APPROVED MEETING MINUTES August 1, 2, & 3, 2007**

Department of Consumer Affairs Howe Avenue Complex  
1424 Howe Avenue, Greg Gorges Conference Room  
Sacramento, California 95825  
(916) 561-8200

***Wednesday August 1, 2007 8:30 AM – 5:00 PM***

#### **1. Call To Order and Roll Call**

President Krueger called the meeting of the Physical Therapy Board of California to order at 8:35 a.m. Roll call was taken. A quorum was established. All members were present except Adele Levine.

Nancy Krueger, PT – President  
Martha Jewell, PT, PhD. - Vice President  
Debra Alviso, PT  
Adele Levine  
Sara Takii, PT  
James Turner

#### **2. New Board Member Appointment(s) – *Nancy Krueger, PT***

President Krueger welcomed Jim Turner to the Board as a returning member. Mr. Turner was appointed by the Speaker of the Assembly and previously served as a Governor appointed member from 2003 and 2005. At President Krueger's invitation, Mr. Turner shared his accomplishments with the Board which included serving as Senior Consultant to the California Assembly Committee on Governmental Organization, Chief Administrative Officer of the California State Assembly, Chief Consultant to the California State Assembly Committee on Education and as Executive Director of the California State Allocation Board.

#### **3. Strategic Planning**

The Board reviewed the 2006 Strategic Plan including the mission and vision statements. The Board agreed to preserve the mission statement as written but deleted from the vision statement the words, "by virtue of the efforts of the Board" and added a period after the word "marketplace".

It was moved by Ms. Jewell, seconded by Ms. Takii to adopt the following vision statement, "California's physical therapy consumers and practitioners enjoy a safe, fair and competitive marketplace." Vote: 5-0. Motion carried.

The Board recessed until Thursday, August 2, 2007 at 9:00 a.m.

**Thursday, August 2, 2007                      9:00 AM – 12:00 PM**

#### **4.     Call To Order and Roll Call**

President Krueger called the meeting of the Physical Therapy Board of California to order at 9:02 a.m. Roll call was taken. A quorum was established. All members were present except Adele Levine.

Nancy Krueger, PT – President  
Martha Jewell, PT, PhD. - Vice President  
Debra Alviso, PT  
Adele Levine  
Sara Takii, PT  
James Turner

#### **5.     Strategic Planning (continued)**

The Board proceeded developing a strategic plan which included six strategic goals for 2007/08. The Board also added values to its plan. The Board charged staff with identifying performance measures to carry out the plan. The strategic plan including goals, objectives and performance measures will be considered for adoption at the meeting of the Board in October, 2007.

**Moved by Ms. Alviso, seconded by Ms. Takii to consider the strategic plan for adoption at the October 2007 meeting.**

**Vote: 5-0. Motion carried.**

#### **6.     CLOSED SESSION**

The Board entered into CLOSED SESSION to deliberate on proposed disciplinary decisions and stipulated settlements per Government Code Section 11126(c)(3).

Disciplinary decisions are available on the Board website at [www.ptb.ca.gov](http://www.ptb.ca.gov).

#### **7.     President's Report – Nancy Krueger, PT (A)        2007 & 2008 Meeting Dates**

President Krueger announced the Board will meet next on October 25 and 26, 2007 in Oakland. The Board viewed the 2008 calendar and determined that in light of the appointment of new legal counsel, Laura Freedman, the staff should develop a calendar considering Ms. Freedman's schedule. Staff will present 2008 dates for consideration by the Board at the next meeting. President Krueger also stated that the Board will be an exhibitor at the CPTA conference in Los Angeles on September 25 and 26, 2007. She requested that all Board members notify staff if they are available to assist with the exhibit booth.

#### **8.     Approval of Minutes**

(A) May 17 & 18, 2007 – Board Meeting

Moved by Ms. Jewell, Seconded by Ms. Alviso to approve the minutes as published.  
Vote: 5-0. Motion carried.

**9. Executive Officer's Report - Steven K. Hartzell**

- (A) Update
- (B) FY 2006 - 2007, FY 2007 – 2008, & FY 2008 - 2009 Budget
- (C) Office Relocation

Mr. Hartzell updated the members on the status of the relocation. He indicated the move date had been changed to December 1<sup>st</sup> and that there would be a new voice over IP phone system as well as new furniture to be purchased. The current phone system has reached the end of its useful life and being part of the overall phone system in the new building will be more cost effective. The Board was also advised that it would be more cost effective to purchase new furniture. Mr. Hartzell then directed the Board's attention to the June CALSTARS report included in the agenda book and to the analysis of the fund condition that he handed out. Members discussed various expenditures and Mr. Hartzell expounded on justification for the fee increase the Board is currently seeking.

Mr. Hartzell advised the Board that the FSBPT Continuing Competency Committee Pilot Program is progressing with the development of an examination that could be taken and considered a pathway for satisfying competency requirements or it could simply be used as a tool for identify professional deficiencies.

**10. 2007 Legislation Update – Steven K. Hartzell**

- (A) Fee Increase
- (B) Proposed Physical Therapy Practice Act
- (C) Obtain Revisions to Legislative Authority to Disconnect Telephones of those Engaging in the Unlicensed Practice of Physical Therapy

Mr. Hartzell explained that there still was no author for a bill to increase the fees, however there is a possibility of the CPTA assisting with this. He went on to say that he is in the process of responding to some questions from the CPTA about the Board's budget and that he was hopeful of satisfying their needs. He also suggested that the Board consider relinquishing cost recovery authority. Mr. Hartzell advised members that there was no bill for the proposed revisions to the Physical Therapy Practice Act or to obtain authority to disconnect telephones of those engaging in the unlicensed practice of physical therapy.

- (D) AB 1444 – Physical therapists; Scope of Practice

Ms. DeFoe of the CPTA advised that AB 1444 has become a two-year bill and they are working on the bill to increase opportunities for success in the next legislative year.

- (E) SB 1049 – Physical therapy; Executive Officer

This bill corrects an oversight that was made in SB 1476, Chapter 658, and Statutes of 2006. Some of the provisions contained in SB 1476 extended the sunset and repeal

dates for the Board, which went through the sunset review process last year. However, due to an oversight these extensions did not include the authority to hire an executive officer. The bill corrects a technical, but substantive, error that was made last year.

In order to ensure continuity in the ongoing operations of the Board the bill contains an urgency clause.

The bill currently is waiting for the third reading by the Assembly.

(F) SB 963 – Regulatory board's: Termination

Ms. Freedman, legal counsel briefed the Board on the intention of the bill. She stated that while there are many provisions to the bill the most significant are that sunset review would be eliminated and that there would be an Office of Consumer Advocate created which would have oversight authority over the boards. She also indicated that the bill mandates an extraordinary amount of reporting by the Board. She further advised that the Department of Consumer Affairs (DCA) adopted an oppose position.

Moved by Ms. Jewell, second by Ms. Takii to adopt an oppose position to SB 963. Vote 5-0. Motion carried.

(G) SB 964 – Local agencies

There was an error on the agenda and this bill was suppose to be SB 64 which Ms. Freedman explained is a bill addressing emergency volunteers and portability of health professionals in the case of an emergency situation such as Hurricane Katrina.

(H) AB 1025 – Professions and vocations: licensure

Mr. Heppler advised the Board that the bill allows for an applicant who was rehabilitated in prison and was deemed successfully rehabilitated the Board could not deny licensure based on the criminal conviction. Mr. Heppler also indicated that DCA adopted an oppose position.

Moved by Ms. Jewell, seconded by Ms. Takii to adopt an oppose position to AB 1025. Vote: 5-0. Motion carried.

Ms. DeFoe, CPTA briefly stated that AB 731 became a two-year bill and that they had been working with the author who incorporated all the amended language suggested by the CPTA.

**11. Discussion and Public Comment Regarding the Development of Regulations to Define a "Doctoral Degree in a Related Health Science" for Purposes of Business and Professions Code Section 2633**

Mr. Heppler, legal counsel distributed a draft discussion document on Health-Related Sciences; Use of the term "Doctor". The Board discussed the document prepared by Mr. Heppler and the educational standards established in existing law. He expressed concern that they may be too broad to use as the definition of health related sciences that may use the term "doctor". They also discussed the regulatory standards for equivalency and the APTA core curriculum for accreditation. Ms. Jewell offered to

assist legal counsel with preparation of regulatory language for consideration by the Board.

Moved by Ms. Takii, second by Ms. Jewell to charge legal counsel to draft regulations defining 2633(d) of the Physical Therapy Practice Act. Vote: 5-0. Motion carried.

## **12. Review and Approval of Newsletter – *Debi Mitchell***

Ms. Mitchell presented the draft of the newsletter prepared to date. Mr. Hartzell indicated he would like to add an article on the “Use of the term “Doctor” and an article regarding section 1398.26.5 of the regulations regarding foreign educated physical therapists clinical service requirements, which effective January 1, 2008, the center coordinator must be certified by the American Physical Therapy Association (APTA) as a clinical instructor. The addition of these articles would extend the newsletter to possibly 10 pages and afford additional opportunity for members to add an article if they chose. Ms. Mitchell indicated that she would need any additional articles to be submitted to her within approximately one week to ensure publication prior to the CPTA conference in September. Ms. Krueger asked that the article titled Continuing Competency Requirements be changed to Continuing Competency Task Force Update. There were a few other grammatical changes noted.

## **13. Consumer Protection Services Report – *Nancy Krueger, PT***

President Krueger drew attention to the report included in the agenda book. She noted that complaints received increased significantly in the past year and sought clarification to the cause. Ms. Marco responded that the Board is actively pursuing those who violate the laws and regulations requiring address change notification within 30 days of the change in address. Ms. Marco stated this could be the largest contributor. President Krueger requested more detailed information in the report, specifically how are complaints being resolved (e.g. confidential closing letter, cite and fine, discipline, etc.)

## **14. Consumer and Professional Associations and Intergovernmental Relations Report– *Steven K. Hartzell***

### **(A) California Physical Therapy Association (CPTA)**

Ms. DeFoe advised members of the union organization issues at the LAX Hilton and to be aware that some of the union representatives have been contacting CPTA members to discourage their attendance at the conference. She further announced that the CPTA will be conducting a town hall meeting on September 13<sup>th</sup> at Chapman College. Additionally, she informed the members on the status of AB 1073 and SB 284. SB 284 authorizes title protection for Athletic Trainers and has passed through the Senate and is in the Assembly. The CPTA is neutral on the bill. AB 1073 removes certain restrictions on visits for workers comp patients and is through the Assembly and is in its 3<sup>rd</sup> reading in the Senate.

### **(B) American Physical Therapy Association (APTA)**

No report.

### **(C) Federation of State Boards of Physical Therapy (FSBPT)**

No report.

### **(D) Department of Consumer Affairs (DCA)**

No report.

(E) California Board of Occupational Therapy (CBOT)

See agenda item number 18.

(F) Board of Chiropractic Examiners (BCE)

No report.

(G) Speech-Language Pathology and Audiology Board (SLPAB)

No report.

(H) Veterinary Medical Board (VMB)

Ms. Jewell questioned the progress on the use of physical therapy in the realm of veterinary medicine and whether the regulations, proposed by the Veterinary Medical Association to the Veterinary Medical Board, had been reviewed. Mr. Hartzell and Mr. Heppler advised that the use of physical therapy is not a protected term outside the treatment of humans.

(I) Medical Board of California (MBC)

The appointment of Barbara Johnston as the new Executive Director of the MBC was announced.

The Board recessed until Friday, August 3, 2007 at 9:00 a.m.

***Friday, August 3, 2007 9:00 AM***

**15. Call To Order and Roll Call**

President Krueger called the meeting of the Physical Therapy Board of California to order at 9:00 a.m. Roll call was taken. A quorum was established. All members were present except Adele Levine.

Nancy Krueger, PT – President

Martha Jewell, PT, PhD. - Vice President

Debra Alviso, PT

Adele Levine

Sara Takii, PT

James Turner

**16. Hearing on Petition for Termination or Modification of Probation – Erin Malecha, PT**

All members, except Ms. Levine, were present and a hearing was conducted by the Board the matter with the Administrative Law Judge C. Trevor Skarda.

After submission of the matter, the Board did convene in CLOSED SESSION to deliberate per Government Code Section 11126(c)(3).

Disciplinary decisions are available on the Board website at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**17. Application & Licensing Services Program Report – Debi Mitchell**

Ms. Mitchell referred the members to the report included in the agenda book. The members appreciated the data included in the report and will look forward to the inclusion of this report in the future. President Krueger requested statistics by school and first time takers of the exam versus repeat takers. In consideration of the Briefing Paper prepared by Ms. Mitchell, Mr. Heppler advised the members that the President, at her discretion, could abolish the Licensing Committee if she determines a necessity for the committee no longer exists.

**18. Practice Issues – Debi Mitchell**

The Board will review, discuss, and take action on the following practice issues submitted to the Board.

- (A) Review and action on Joint Statements by the California Board of Occupational Therapy and the Physical Therapy Board of California to provide clarification of both professions scope of practice and physical therapist supervising an occupational therapist to obtain their advance practice certification.

The Board reviewed the latest version of the joint statement titled “Clarification of a Physical Therapist’s and Occupational Therapist’s Scope of Practice within the State of California”. Ms. Mitchell informed the Board the Occupational Therapy Board at their last meeting made the revisions to add “within the State of California” in the title and as appropriate at the end of the third paragraph.

Moved by Ms. Jewell, Seconded by Mr. Turner to adopt the Clarification of a Physical Therapist’s and Occupational Therapist’s Scope of Practice within the State of California as written. Vote: 5-0. Motion carried.

The Board reviewed the joint statement on “Clarification of a Physical Therapist’s Responsibility while Providing Supervised Training of an Occupational Therapist Obtaining an Advanced Practice Certification in Hand Therapy or Physical Agent Modalities within the State of California”. Ms. Mitchell directed members to the joint statement included in the agenda book and specified that the changes made by the Occupational Therapy Board were signified in blue font.

Mr. Heppler, legal counsel, expressed his concern with the use of the word “will” in the following sentence under paragraph two in Alternative 1: PT Treatment Plan, “The PT “will” review and discuss with the OT, for educational purposes the portion of the treatment plan relating to the advanced practice procedure”. Mr. Heppler advised changing the word “will” to “should” as using the word “will” would required making it mandatory and would required a regulatory change.

Moved by Ms. Jewell, seconded by Mr. Turner to adopt the statement titled “Clarification of a Physical Therapist’s Responsibility while Providing Supervised Training of an Occupational Therapist Obtaining an Advanced Practice Certification in Hand Therapy or Physical Agent Modalities within the State of California” with changing the word “will” to “should” in the second sentence in paragraph two under Alternative 1: PT Treatment Plan.

The Board will post the joint statement on “Clarification of a Physical Therapist’s and Occupational Therapist’s Scope of Practice within the State of California” on the Board’s website as this joint statement has been adopted by both Physical Therapy and Occupation Therapy Boards.

The Board will not post the joint statement on “Clarification of a Physical Therapist’s Responsibility while Providing Supervised Training of an Occupational Therapist Obtaining an Advanced Practice Certification in Hand Therapy or Physical Agent Modalities within the State of California” on the Board’s website until the Occupational Therapy Board has adopted this joint statement with the change.

Additionally, the Board considered an inquiry regarding the employment of a person to do pedicures. The Board agreed to refer the inquiry to the Board of Barber and Cosmetology.

**19. Consideration of Proposed Amendment to Section 1399.15, Disciplinary Guidelines, of Title 16 of the California Code of Regulations**

Mr. Hartzell explained that additional review and edits of the language needed to occur prior to consideration by the Board. He also suggested that the Board appoint two members of the Board to review the changes proposed by staff prior to a formal proposal being presented to the Board. Mr. Turner and Ms. Takii agreed to conduct the review. Staff will forward the proposed amended language to Mr. Turner and Ms. Takii in early September to afford them ample time to conduct the review.

**20. Consideration of Proposed Amendment to Section 1399.26, Issuance of Administrative Citations, of Title 16 of the California Code of Regulations**

The Board considered the draft of the proposed language to section 1399.26, Issuance of Administrative Citations. The Board directed staff to prepare the file for hearing at the meeting on October 15 and 26, 2007.

**21. Continuing Competency Task Force Report – Marty Jewell, PT, PhD**

Ms. Jewell directed the Board to the draft minutes included in the agenda book. The draft will be reviewed by the task force at their next meeting scheduled for August 22<sup>nd</sup>.

**22. Proposed Changes to Medicare Regulations CNS-1385-P**

- (A) Review of and adoption of position and comments on, the proposed changes to the Federal Regulations for Medicare. The Board's primary focus is any restriction on the utilization of physical therapist assistants who are licensed by the Board based on requirements other than graduation from a CAPTE approved program. Part 424 titled Conditions for Medicare Payment, is where any restrictions are likely to be included in the regulation.

The Board reviewed the briefing paper included in the agenda book. Moved by Ms. Takii, seconded by Ms. Alviso to direct staff to submit comments on CMS-1385-P that the personnel qualifications for physical therapists and physical therapist assistants should be licensure by the state in which the care is performed. The comments should include the information that it is the individual states, not the APTA, that determines the standards for licensure, including education, education equivalency, and competency examinations. Vote: 5-0. Motion carried.

**23. FSBPT Continuing Competency Steering Committee Pilot Program Update – Steven K. Hartzell**

The Board discussed this agenda item under agenda item number 9; however, at this point Ms. Takii asked that the Board return to agenda item number 14C. Ms. Takii reported on the value of attending the FSBPT training and how she benefited from having an enhanced understanding of the role and function of the FSBPT and its impact on the profession. Ms. Takii also indicated that as a voting delegate she is seeking



clarification from the Board on voting direction. Mr. Hartzell responded that the Board has never directed delegates on how to vote. He further added that after listening to the discussions, delegates have the latitude to vote in the direction from their perspective best serves the members. The Board reviewed and discussed each of the motions for the 2007 delegate assembly.

#### **24. Agenda Items for Next Meeting**

There were no specific agenda items requested for the PTBC meeting on October 25 & 26, 2007 in Oakland, California.

#### **25. Public Comment on Items not on the Agenda**

There were no public comments made at this time.

#### **26. Adjournment**

President Krueger adjourned the meeting of the Physical Therapy Board of California at 12:12 p.m.

Moved by Ms. Jewell, Seconded by Ms. Alviso to approve the August 1, 2, & 3, 2007, minutes with amendments to Agenda Item 3, page 2, line 51, correction of the date; Agenda Item 5, page 2, line 76, delete the word "improve", and change to read "to consider the strategic plan for adoption at the October 2007 meeting"; Agenda Item 14, page 5, line 244, insert the word "certain" after the word removes; page 6, line 268, correction of the date. Vote: 5-1 Abstention. Motion carried.

The minutes have been corrected to reflect the amendments in the motion.

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**Nancy Krueger, PT-President**

**Date**